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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,976	04/05/2004	CHRISTOPHER CHOI		2975
39845	7590	12/06/2005	EXAMINER	
CHRISTOPHER CHOI 14800 W. DAKOTA ST. NEW BERLIN, WI 53151			PRINCE, FRED G	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/708,976

Applicant(s)

CHOI, CHRISTOPHER

Examiner

Fred Prince

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 5-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 8-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 0404.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species A in the reply filed on November 2, 2005 is acknowledged.
2. Claims 5-7 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 2, 2005.

Information Disclosure Statement

3. The information disclosure statement filed April 5, 2004 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it is unclear what reference applicant intended the examiner to consider in the reference listed last on the IDS. The patent number listed does not match the inventor's name provided next to the patent number. Accordingly, the reference referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

Claim Objections

4. Claim 1 is objected to because of the following informalities:

In line 3, “funnel” should be changed to funnels.

In line 4, a should be inserted prior to “flat”.

In line 5, a should be inserted prior to “porous”.

In line 6, an should be inserted prior to “upper” and a should be inserted prior to “lower”.

In line 9, a should be inserted prior to “beginning”.

In line 16, “an” should be deleted prior to “entrance” and the inserted therefor.

Appropriate correction is required.

5. Claim 7 is objected to because of the following informalities:

In line 3, a should be inserted prior to “smaller”. Appropriate correction is required.

6. Claim 14 is objected to because of the following informalities:

In line 2, “close” should be deleted and a closed inserted therefor.

In line 4, an should be inserted prior to “open”.

Appropriate correction is required.

7. Claim 18 is objected to because of the following informalities:

In line 2, a should be inserted prior to “sleeve”.

In line 5, an should be inserted prior to “open”.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-4 and 8-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claim 1 recites the limitation "the entrance point" in lines 14 and 18. There is insufficient antecedent basis for this limitation in the claim. It is suggest that "point" be deleted after "entrance".

11. Claim 2 recites the limitation "the discharge orifice" in line 4. There is insufficient antecedent basis for this limitation in the claim. It is suggested that "discharge" be changed to "flushing".

12. Claim 11 recites the limitation "the designedly coned walls" in line 7. There is insufficient antecedent basis for this limitation in the claim. It is suggested that "the" be deleted.

13. Claim 18 recites the limitation "the said water cap" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is suggested that "The said" be deleted and a inserted therefor.

Claims 3-4, 8-10, and 12-17 are rejected as depending from a rejected claim.

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 1-2, 12, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Carmouche (US Pat No 3,638,616).

Carmouche teaches (a) a bottom waste section of rigid material of sufficient size and volume which funnel downward (Figure) from a flat top to a flushing orifice (6); (b) a removable screening means (3) for providing a porous barrier between an upper main liquid chamber and a lower waste section chamber (Fig); (c) a plugging seal (9) that can be manipulated to open and close the flushing orifice at a beginning of an entrance of the orifice; whereby said location of the plugging seal at the beginning of the entrance of the orifice inherently allows for a maximum flow for a predetermined cross section at the entrance since the seal is moved away from the orifice to open flow; whereby said location of the plugging seal at the beginning of the entrance of the orifice does not interfere with the cross section throughout a liquid flow path from the entrance to a discharge point since the plugging seal is moved away from the orifice to open flow, and whereby the flushing orifice comprises an attachment (7).

Allowable Subject Matter

16. Claims 3, 8-11, 13, and 15-18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

While claims 1-2, 4, 12, and 14 are not patentable for the reasons given above, in the examiner's opinion, the prior art fails to teach or fairly suggest a flushing base having

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the recited positioning and operational elements. The instant invention provides the advantage of facilitating easy flushing, aerating, and recycling of water while maximizing flow through the flushing orifice.

Conclusion


17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References are cited of interest to show the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Prince whose telephone number is (571) 272-1165. The examiner can normally be reached on Monday-Thursday, 6:30-4:00; alt. Fridays 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Fred Prince
Primary Examiner
Art Unit 1724

fgp
11/30/05